THE

SPEECHES

(AT LENGTH)

OF THE HONOURABLE

T. ERSKINE, & S. KYD, Esq.

AT THE

COURT OF KING's BENCH, WESTMINSTER,

ON SATURDAY, JUNE 24, 1797;

ON THE

TRIAL OF T. WILLIAMS,

FOR PUBLISHING

Paine's Age of Reason;

WITH

LORD KENYON's CHARGE TO THE JURY.

SECOND EDITION CORRECTED.

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1797

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BRITAN
NICVM

SPEECHES

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HON. T. ERSKINE AND S. KYD, Esq.

"*Gentlemen of the Jury,*

"THE charge of Blaſphemy, which is put upon the record againſt the Publiſher of this publication is not an accuſation of the ſervants of the Crown, but comes before you ſanctioned by the Oaths of a Grand Jury of the Country. It ſtood for trial upon a former day; but it happening, as it frequently does, without any imputation upon the Gentlemen named in the panne], that a ſufficient number did not appear to conſtitute a full Special Jury, I thought it my duty to withdraw the cauſe from trial, till I could have the opportunity which is now open to me of addreſſing myſelf to you, who were originally appointed to try it.

"I purſued this courſe, however, from no jealouſy of the Common Juries appointed by the laws for the ordinary ſervice of the Court, ſince my whole life has been one continued experience of their virtues; but becauſe I thought it of great importance, that thoſe who were to decide upon a cauſe ſo very momentuos to the Public, ſhould have the higheſt poſſible qualifications for the deciſion. That they ſhould not only be men capable from their educations of forming an enlightened judgment, but that their ſituations ſhould be ſuch as to bring them within the full view of their enlightened Country, to which in character and in

eſtimation, they were in their own turns to be reſponcible.

" Not having the honour, Gentlemen, to be ſworn for the King as one of his Counſel, it has fallen much oftener to my lot to defend indictments for libels, than to aſſiſt in the proſecution of them. But I feel no embarraſſment from that recollection; ſince I ſhall not be found to-day to expreſs a ſentiment, or to utter an expreſſion inconſiſtent with thoſe invaluable principles for which I have uniformly contended in the defence of others. Nothing that I have ever ſaid, either profeſſionally or perſonally for the Liberty of the Preſs, do I mean to day to contradict or counteract. On the contrary, I deſire to preface the very ſhort diſcourſe I have to make to you with reminding you, that it is your moſt ſolemn duty to take care that it ſuffers no injury in your hands. A free and unlicenſed preſs (*in the juſt and legal ſenſe of the expreſſion*) has led to all the bleſſings both of Religion and government, which Great Britain or any part of the world at this moment enjoys, and is calculated ſtill father to advance mankind to higher degrees of civilization and happineſs. But this freedom, like every other, muſt be limited to be enjoyed, and like every human advantage, may be defeated by its abuſe.

" Gentlemen! the Defendant ſtands indicted for having publiſhed this book, which I have only read from the obligations of profeſſional duty, and which I roſe from the reading of with aſtoniſhment and diſguſt. Standing here with all the privileges belonging to the higheſt Counſel for the Crown, I ſhall be entitled to reply to any defence that ſhall be made for the publication. I ſhall wait with patience till I hear it.

" Indeed, If I were to anticipate the defence which I hear and read of, it would be defaming by anticipation

anticipation the learned Counſel who is to make it. For if I am to collect it, even from a formal notice given to the proſecutors in the courſe of the proceedings, I have to expect, that inſtead of a defence conducted according to the rules and principles of Engliſh law and juſtice, the foundation of all our laws, and the ſanctions of all our juſtice, are to be ſtruck at and inſulted. What is the force of that juriſdiction which enables the Court to ſit in judgment? What but the Oath which his Lordſhip, as well as yourſelves, have ſworn upon the Goſpel to fulfil. Yet in the King's Court, where his Majeſty is himſelf alſo ſworn to adminiſter the juſtice of England—in the King's Court—who receives his high authority under a ſolemn Oath to maintain the Chriſtian Religion, as it is promulgated by God in the Holy Scriptures, I am nevertheleſs called upon as Counſel for the proſecution to produce a certain book deſcribed in the indictment to be the Holy Bible.

" No man deſerves to be upon the Rolls of the Court, who dares, as an Attorney, to put his name to ſuch a notice. It is an inſult to the authority and dignity of the Court of which he is an officer; ſince it ſeems to call in queſtion the very foundations of its juriſdiction. If this is to be the ſpirit and temper of the defence; if, as I collect from that array of books which are ſpread upon the benches behind me, this publication is to be vindicated by an attack of all the truths which the Chriſtian Religion promulgates to mankind, let it be remembered, that ſuch an argument was neither ſuggeſted nor juſtified by any thing ſaid by me on the part of the proſecution.

" *In this ſtage of the proceedings*, I ſhall call for reference to the ſacred Scriptures, not from their merits, unbounded as they are, but from their authority in a Chriſtian Country—not from the obliga-

obligations of conſcience, but from the rules of law. For my own part, Gentlemen, I have ever been deeply devoted to the truths of Chriſtianity, and my firm belief in the Holy Goſpel is by no means owing to the prejudices of education, (though I was religiouſly educated by the beſt of parents) but ariſes from the fulleſt and moſt continued reflections of my riper years and underſtanding. It forms at this moment the great conſolation of a life which, as a ſhadow, muſt paſs away; and without it, indeed, I ſhould conſider my long courſe of health and proſperity (perhaps too long and too uninterrupted to be good for any man) only as the duſt which the wind ſcatters, and rather as a ſnare than as a bleſſing.

" Much, however, as I wiſh to ſupport the authority of Scripture from a reaſoned conſideration of it, I ſhall repreſs that ſubject for the preſent. But if the defence ſhall be as I have ſuſpected, to bring them at all into argument or queſtion, I ſhall then fulfil a duty which I owe not only to the Court as Counſel for the Proſecution, but to the Public, to ſtate what I feel and know concerning the evidences of that Religion which is reviled without being examined, and denied without being underſtood.

" I am well aware that by the communications of a free preſs, all the errors of mankind, from age to age have been diſſipated, and diſpelled; and I recollect that the world, under the banners of reformed Chriſtanity, has ſtruggled through perſecution to the noble eminence on which it ſtands at this moment, ſhedding the bleſſings of humanity and ſcience upon the nations of the earth.

" It may be aſked, by what means the Reformation would have been effected, if the books of the Reformers had been ſuppreſſed, and the errors of condemned and exploded ſuperſtitions had been ſupported as unqueſtionable by the State founded upon

on thoſe very ſuperſtitions formerly, as it is at preſent upon the doctrines of the Eſtabliſhed Church? Or how, upon ſuch principles, any reformation civil or religious, can in future be effected. The ſolution is eaſy:—Let us examine what are the genuine principles of the Liberty of the Preſs, as they regard writings upon general ſubjects unconnected with the perſonal reputations of private men, which are wholly foreign to the preſent inquiry? They are full of ſimplicity, and are brought as near perfection, by the Law of England, as perhaps is conſiſtent with any of the frail inſtitutions of mankind.

"Although every community muſt eſtabliſh ſupreme authorities, founded upon fixed principles, and muſt give high powers to Magiſtrates to adminiſter laws for the preſervation of the Government itſelf, and for the ſecurity of thoſe who are to be protected by it: yet, as infalibility and perfection belong neither to human eſtabliſhments nor to human individuals, it ought to be the policy of all free eſtabliſhments, as it is moſt peculiarly the principle of our own Conſtitution, to permit the moſt unbounded freedom of diſcuſſion, even by detecting errors in the Conſtitution or Adminiſtration of the very Government itſelf, ſo as that decorum is obſerved, which every ſtate muſt exact from its ſubjects, and which impoſes no reſtraint upon any intellectual compoſition, fairly, honeſtly, and decently addreſſed to the conſciences and underſtandings of men. Upon this principle, I have an unqueſtionable right, (a right which the beſt ſubjects have exerciſed) to examine the principles and ſtructure of the Conſtitution, and by fair and manly reaſoning, to queſtion the practice of its adminiſtrators. I have a right to conſider and to point out errors in the one or in the other; and not merely to reaſon upon their exiſtence, but to conſider the means of their reformation.

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" By ſuch free, well intentioned, modeſt, and dignified communication of ſentiments and opinions all nations have been gradually improved, and milder laws and purer religions have been eſtabliſhed. The ſame principles, which vindicate civil contentions honeſtly directed, extend their protection to the ſharpeſt controverſies on religious faiths. This rational and legal courſe of improvement was recognized and ratified by Lord Kenyon as the Law of England, in a late trial at Guildhall, when he looked back with gratitude to the labours of the Reformers, as the fountains of our religious emancipation, and of the civil bleſſings that followed in their train. The Engliſh Conſtitution, indeed, does not ſtop ſhort in the toleration of religious *opinions*, but liberally extends it to *practice*. It permits every man, EVEN PUBLICLY, to worſhip God according to his own conſcience, though in marked diſſent from the national eſtabliſhment, ſo as he profeſſes the general faith, which is the ſanction of all our moral duties, and the only pledge of our ſubmiſſion to the ſyſtem which conſtitutes a State.

" Is not this ſyſtem of freedom of controverſy, and freedom of worſhip, ſufficient for all the purpoſes of human happineſs and improvement? And can it be neceſſary for either, that the Law ſhould hold out indemnity to thoſe who wholly abjure and revile the Government of their country, or the Religion on which it reſts for its foundation? I expect to hear, in anſwer to what I am now ſaying, much that will offend me. My learned Friend, from the difficulties of his ſituation, which I know from experience how to feel for very ſincerely, may be driven to advance propoſitions which it may be my duty, with much freedom, to reply to; and the law will ſanction that freedom. But will not the ends of juſtice be completely anſwered by that right, to point out the errors of his diſcourſe in terms that

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are decent, and calculated to expoſe its defects; or will any argument ſuffer, or will public juſtice be impeded, becauſe neither private honour and juſtice, nor public decorum, would endure my telling my very learned Friend, that he was a fool, a liar, and ſcoundrel, in the face of the Court, becauſe I differ from him in argument or opinion? This is juſt the diſtinction between a book of free legal controverſy and the book which I am arraigning before you. Every man has a legal right to inveſtigate, with modeſty and decency, controverſial points of the Chriſtian religion; but no man, conſiſtently with a law, which only exiſts under its ſanctions, has a right not only broadly to deny its very exiſtence, but to pour forth a ſhocking and inſulting invective, which the loweſt eſtabliſhments, in the gradations of civil authority, ought not to be permitted to ſuffer, and which ſoon would be borne down by inſolence and diſobedience, if they did.

"The ſame principle pervades the whole ſyſtem of the law, not merely in its abſtract theory, but in its daily and moſt applauded practice.—The intercourſe between the ſexes, and which, properly regulated, not only continues, but humanizes and adorns our natures, is the foundation of all the thouſand romances, plays, and novels, which are in the hands of every body. Some of them lead to the confirmation of every virtuous principle; others, though with the ſame profeſſion, addreſs the imagination in a manner to lead the paſſions into dangerous exceſſes. But though the Law does not nicely diſcriminate the various ſhades which diſtinguiſh theſe works from one another, ſo as that it ſuffers many to paſs, through its liberal ſpirit, that upon principle might be ſuppreſſed, would it or does it tolerate, or does any decent

man contend that it ought to paſs by unpuniſhed libels of the moſt ſhameleſs obſcenity, manifeſtly pointed to debauch innocence, and to blaſt and poiſon the morals of the riſing generation? This is only another illuſtration to demonſtrate the obvious diſtinction between the work of an author, who fairly exerciſes the powers of his mind, in inveſtigating doctrinal points in the religion of any country, and him who attacks the rational exiſtence of every religion, and brands with abſurdity and folly the ſtate which ſanctions, and the obedient tools who cheriſh the deluſion. But this publication appears to me to be as miſchievous and cruel in its probable effects, as it is manifeſtly illegal in its principles! becauſe it ſtrikes at the beſt, ſometimes, alas! the only refuge and conſolation amidſt the diſtreſſes and afflictions of the world. The poor and humble, whom it affects to pity, may be ſtabbed to the heart by it. They have more occaſion for firm hopes beyond the grave, than thoſe who have greater comforts to render life delightful. I can conceive a diſtreſſed but virtuous man, ſurrounded by children, looking up to him for bread when he has none to give them, ſinking under the laſt day's labour, and unequal to the next, yet ſtill looking up with confidence to the hour when all tears ſhall be wiped from the eyes of affliction, bearing the burden laid upon him by a myſterious Providence which he adores, and looking forward with exultation to the revealed promiſes of his Creator, when he ſhall be greater than the greateſt, and happier than the happieſt of mankind. What a change in ſuch a mind might not be wrought by ſuch a mercileſs publication? Gentlemen! whether theſe remarks are the overcharged declamations of an accuſing Counſel, or the juſt reflections of a man anxious for the public freedom,

dom, which is beſt ſecured by the morals of a nation, will be beſt ſettled by an appeal to the paſſages in the work, that are ſelected by the indictment for your conſideration and judgment. You are at liberty to connect them with every context and ſequel, and to beſtow upon them the mildeſt interpretation. [*Here Mr. Erſkine read and commented upon ſeveral of the ſelected paſſages, and then proceeded as follows:*]—

" Gentlemen, it would be uſeleſs and diſguſting to enumerate the other paſſages within the ſcope of the indictment. How any man can rationally vindicate the publication of ſuch a book, in a country where the Chriſtian Religion is the very foundation of the law of the land, I am totally at a loſs to conceive, and have no ideas for the diſcuſſion of? How is a tribunal, whoſe whole juriſdiction is founded upon the ſolemn belief and practice of what is denied as falſehood, and reprobated as impiety to deal with ſuch an anomalous defence? Upon what principle is it even offered to the Court, whoſe authority is contemned and mocked at? If the religion propoſed to be called in queſtion, is not previouſly adopted in belief and ſolemnly acted upon, what authority has the Court to paſs any judgment at all of acquittal or condemnation? Why am I now, or upon any other occaſion, to ſubmit to your Lordſhip's authority? Why am I now or at any time to addreſs twelve of my equals, as I am now addreſſing you, with reverence and ſubmiſſion? Under what ſanction are the witneſſes to give their evidence, without which there can be no trial? Under what obligations can I call upon you, the Jury repreſenting your Country, to adminiſter juſtice? Surely upon no other than that you are ſworn to adminiſter it under the oaths you have taken. The whole judicial frabric, from the King's ſovereign

authority to the loweſt office of magiſtracy, has no other foundation. The whole is built, both in form and ſubſtance, upon the ſame oath of every one of its miniſters to do juſtice, AS GOD SHALL HELP THEM HEREAFTER. What God? And what hereafter? That God, undoubtedly, who has commanded Kings to rule, and Judges to decree juſtice; who has ſaid to witneſſes, not only by the voice of nature, but in revealed commandments —THOU SHALT NOT BEAR FALSE TESTIMONY AGAINST THY NEIGHBOUR; and who has enforced obedience to them by the revelation of the unutterable bleſſings which ſhall attend their obſervances, and the awful puniſhments which ſhall await upon their tranſgreſſions.

" But it ſeems, this is an age of reaſon, and the time and the perſon are at laſt arrived, that are to diſſipate the errors which have overſpread the paſt generations of ignorance. The believers in Chriſtianity are many, but it belongs to the few that are wiſe to correct their credulity. Belief is an act of reaſon, and ſuperior reaſon may, therefore, dictate to the weak. In running the mind along the long liſt of ſincere and devout Chriſtians, I cannot help lamenting, that Newton had not lived to this day, to have had his ſhallowneſs filled up with this new flood of light.—But the ſubject is too awful for irony. I will ſpeak plainly and directly. Newton was a Chriſtian! Newton, whoſe mind burſt forth from the fetters caſt by nature upon our finite conceptions—Newton whoſe ſcience was truth, and the foundation of whoſe knowledge of it was philoſophy; not thoſe viſionary and arrogant preſumptions, which too often uſurp its name, but philoſophy reſting upon the baſis of mathematics, which, like figures, cannot lie. Newton, who carried the line and rule to the uttermoſt barriers

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of creation, and explored the principles by which, no doubt, all created matter is held together and exiſts. But this extraordinary man, in the mighty reach of his mind, overlooked, perhaps, the errors, which a minuter inveſtigation of the created things on this earth might have taught him, of the eſſence of his Creator. What ſhall then be ſaid of the great Mr. Boyle, who looked into the Organic Structure of all Matter, even to the brute inanimate ſuſtances, which the foot treads on. Such a man may be ſuppoſed to have been equally qualified with Mr. Paine to look up through Nature to Nature's God. Yet the reſult of all his contemplation was the moſt confirmed and devout belief in all which the other holds in contempt, as deſpicable and drivelling ſuperſtition.—But this error might, perhaps, ariſe from a want of a due attention to the foundations of human judgment, and the ſtructure of that underſtanding which God has given us for the inveſtigation of truth.—Let that queſton be anſwered by Mr. Locke, who was, to the higheſt pitch of devotion and adoration, a Chriſtian. Mr. Locke, whoſe office was to detect the errors of thinking, by going up to the fountains of thought, and to direct into the proper track of reaſoning, the devious mind of man, by ſhewing him its whole proceſs, from the firſt perceptions of ſenſe to the laſt concluſions of ratiocination, putting a rein beſides upon falſe opinion, by practical rules for the conduct of human judgment. But theſe men were only deep thinkers, and lived in their cloſets, unaccuſtomed to the traffic of the world and to the laws which practically regulate mankind.

"Gentlemen! in the place where we now ſit to adminiſter the juſtice of this great country, above a century ago, the never to be forgotten Sir Matthew Hale preſided; whoſe faith in Chriſtianity is an exalted

exalted commentary upon its truth and reaſon, and whoſe life was a glorious example of its fruits in man, adminſtering human juſtice with a wiſdom and purity drawn from the pure fountain of the Chriſtain diſpenſation, which has been, and will be, in all ages, a ſubject of the higheſt reverence and admiration. But it is ſaid by the Author, that the Chriſtian Fable is but the tale of the more ancient ſuperſtitions of the world, and may be eaſily detected by a proper underſtanding of the Mythologies of the Heathens. Did Milton underſtand thoſe mythologies? Was *he* leſs verſed than Mr. Paine in the ſuperſtitions of the world? No, they were the ſubject of his immortal ſong; and though ſhut out from all recurrence to them, he poured them forth from the ſtores of a memory rich with all that man ever knew; and laid them in their order as the illuſtration of that real and exalted faith, the unqueſtionable ſource of that fervid genius, which caſt a ſort of ſhade upon all the other works of man—

> He paſſed the bounds of flaming ſpace,
> Where Angels tremble while they gaze;
> He ſaw, till blaſted with exceſs of light,
> He cloſed his eyes in endleſs night.

But it was the light of the BODY only that was extinguiſhed; "The celeſtial light ſhone inward, and enabled him to juſtify the ways of God to man."—The reſult of his thinking was nevertheleſs not the ſame as the Author's. The myſterious incarnation of our Bleſſed Saviour (which this work blaſphemes in words ſo wholly unfit for the mouth of a Chriſtian, or for the ear of a Court of Juſtice, that I dare not, and will not, give them utterance) Milton made the grand concluſion of the *Paradiſe Loſt*, the

the reſt from his finiſhed labours and the ultimate hope, expectation, and glory of the world.

A Virgin is his Mother, but his Sire,
The power of the Moſt High; he ſhall aſcend
The Throne hereditary, and bound his reign
With Earth's wide bounds, his glory with the Heav'ns.

" The immortal Poet having thus put into the mouth of the Angel the prophecy of man's redemption, follows it with that ſolemn and beautiful admonition, addreſſed in the Poem to our great Firſt Parent, but intended as an addreſs to his poſterity through all generations.

This having learn'd, thou haſt attain'd the ſum
Of wiſdom, hope no higher, tho' all the ſtars
Thou knew'ſt by name, and all th' ethereal pow'rs,
All ſecrets of the deep, all Nature's works,
Or works of God in Heav'n, air, earth, or ſea,
And all the riches of this world enjoy'ſt,
And all the rule, one empire; only add
Deeds to thy knowledge anſwerable, add faith,
Add virtue, patience, temperance, add love,
By name to come call'd Charity, the Soul
Of all the reſt: then wilt thou not be loth
To leave this Paradiſe, but ſhall poſſeſs
A Paradiſe within thee, happier far.

" Thus you find all that is great, or wiſe, or ſplendid, or illuſtrious, amongſt created beings; all the minds gifted beyond ordinary nature, if not inſpired by its univerſal author for the advancement and dignity of the world, though divided by diſtant ages, and by the claſhing opinions, diſtinguiſhing them from one another, yet joining as it were in one ſublime chorus, to celebrate the truths of Chriſtianity, and laying upon its holy altars the never-fading offerings of their immortal wiſdom.

" Againſt

" Againſt all this concurring teſtimony, we find ſuddenly, from the author of this book, that the Bible teaches nothing but " lies, obſcenity, cruelty, and injuſtice." Had he ever read our Saviour's Sermon on the Mount?—in which the great principles of our faith and duty are ſummed up?—Let us all but read and practiſe it, and lies, obſcenity, cruelty, and injuſtice, and all human wickedneſs would be baniſhed from the world!

" Gentlemen, there is but one conſideration more which I cannot poſſible omit, becauſe I confeſs it affects me very deeply. The author of this book has written largely on public liberty and government; and this laſt performance has on that account, been more widely circulated, and principally among thoſe who attached themſelves from principle to his former works. This circumſtance renders a public attack *upon all revealed religion* from ſuch a writer infinitely more dangerous. The religious and moral ſenſe of the people of Great Britain, is the great anchor which alone can hold the veſſel of the ſtate amidſt the ſtorms which agitate the world, and if I could believe for a moment, that the maſs of the people were to be debauched from the principles of religion, which forms the true baſis of that humanity, charity, and benevolence, that has been ſo long the national characteriſtic, inſtead of mixing myſelf, as I ſometimes have done, in political reformations, I would rather retire to the uttermoſt corners of the earth to avoid their agitation; and would bear, not only the imperfections and abuſes complained of in our own wiſe eſtabliſhment, but even the worſt Government that ever exiſted in the world, rather than go to the work of reformation with a multitude ſet free from all the charities of Chriſtianity, who had no ſenſe of God's exiſtence, but from Mr. Paine's Obſervation of Nature,

Nature, which the maſs of mankind have no leiſure to contemplate; nor any belief of future rewards and puniſhments, to animate the good in the glorious purſuit of human happineſs, nor to deter the wicked from deſtroying it even in its birth. But I know the people of England better. They are a religious people, and with the bleſſing of God, as far as it is in my power, I will lend my aid to keep them ſo.

" I have no objections to the freeſt and moſt extended diſcuſſions upon doctrinal points of the Chriſtain Religion, and *though the law of England does not permit it*, I do not dread the reaſoned arguments of Deiſts againſt the exiſtence of Chriſtianity itſelf, becauſe, as was ſaid by its Divine Author, if it is of God, it will ſtand. An intellectual book, however erroneous, addreſſed to the intellectual world upon ſo profound and complicated a ſubject can never work the miſchief which this indictment is calculated to repreſs. Such works will only employ the minds of men enlighted by ſtudy, to a deeper inveſtigation of a ſubject well worthy of their deepeſt and continued contemplation. The powers of the mind are given for human improvement in the progreſs of human exiſtence. The changes produced by ſuch reciprocations of lights and intelligences are certain in their progreſſions, and make their way imperceptibly, as conviction comes upon the world, by the final and irreſtible power of truth. If Chriſtianity be founded in falſehood, let us become Deiſts in this manner and I am contented. But this book has no ſuch object, and no ſuch capacity: it preſents no arguments to the wiſe and enlightened. On the contrary, it treats the faith and opinons of the wiſeſt with the moſt ſhocking contempt, and ſtirs up men without the advantages of learning, or ſober thinking, to a total diſbelie

of every thing hitherto held ſacred; and conſequently to a rejection of all the laws and ordinances of the ſtate, which ſtand only upon the aſſumption of their truth.

" Gentlemen! I cannot conclude without expreſſing the deepeſt regret at all the attacks upon the Chriſtian Religion by authors who profeſs to promote the civil liberties of the world. For under what other auſpices than Chriſtianity have the loſt and ſubverted liberties of mankind in former ages been re-aſſerted? By what zeal, but the warm zeal of devoted Chriſtians have Engliſh liberties been redeemed and conſecrated? Under what other ſanctions, even in our own days, have liberty and happineſs been extending and ſpreading to the uttermoſt corners of the earth? What work of civilization, what common wealth of greatneſs has this bald religion of nature ever eſtabliſhed? We ſee on the contrary, the nations that have no other light than that of Nature to direct them, ſunk in barbariſm, or ſlaves to arbitary Governments; whilſt ſince the Chriſtian ære, the great career of the world has been ſlowly, but clearly advancing, lighter at every ſtep, from the awful prophecies of the Goſpel, and leading, I truſt, in the end to univerſal and eternal happineſs. Each generation of mankind can ſee but a few revolving links of this mighty and myſterious chain, but by doing our ſeveral duties in our allotted ſtations, we are ſure, that we are fulfilling the purpoſes of our exiſtence. You, I truſt, will fulfil yours this day!"

A Mr. *Fleming*, one of the Clerks of the Bank, was the only witneſs called on the part of the Proſecution. He ſaid, he purchaſed the book in queſtion, of the Defendant, at his ſhop, on the 7th of February laſt.

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The NOTICE which Mr. *Erſkine* mentioned in his ſpeech was here read, and Mr. *John Martin*, the Attorney for the Defendant, readily admitted that he had ſent it to thoſe who were concerned for the proſecution.

" Mr. KYD began his addreſs to the Jury by obſerving, that the charge againſt the Defendant was certainly a ſerious and a formidable one. He ſaid, the Defendant had impoſed on him the duty of defending him; and expreſſed his aſſurance, that, while he endeavoured to diſcharge this duty with full attention to the reſpect that was due to the dignity of the Court, and with that decent and unaffected ſerioufneſs which he felt belonged to the ſubject, he ſhould be favoured with a patient and impartial hearing, both from his Lordſhip and the Jury. Though he had undertaken to defend this man from the penal conſequences which it was ſought to attach to the publication of the pamphlet in queſtion, yet he thought it proper, in this early period of his addreſs, and indeed Mr. Erſkine had in a manner called upon him, to appriſe the Jury, that it was not a matter of courſe that he ſhould have undertaken to maintain the truth of every aſſertion contained in the paſſages ſelected for proſecution, or to aſſert the correctneſs of the reaſoning, or the juſtneſs of every concluſion drawn from the facts alledged or the arguments ſtated in the publication. On ſuch a plan, he ſaid, it would be impoſſible to defend any book that was ever written on the ſubject of Religion or Politics, Metaphyſics or Morals, or on any other ſubject which in its nature, was not ſuſceptible of ſtrict and abſolute demonſtration: on ſuch a plan, he would not undertake to defend even the excellent anſwer of the Biſhop of Llandaff to part of the very publication which was the object of the proſecution, nor the anſwer of the ſame

learned Prelate to the 15th and 16th chapters of Mr. Gibbon's Roman Hiſtory. He wiſhed it to be diſtinctly underſtood, that he did not appear in the place where he ſtood in the character of a theological diſputant, whoſe object it might be, to maintain the truth of one ſyſtem of religious tenets, or to arraign the falſhood of another; that he did not preſent himſelf before the Jury as a Deiſt prepared to deny the truth of revealed religion, to impeach the authority of the Bible, or to juſtify, in the ſtrict and legal ſenſe of the word, the attack made upon it by the publication which was the object of the preſent proſecution: but that he ſtood where he did, an Advocate in an Engliſh Court of Juſtice, to aſſert and to maintain the right of every individual, fairly and honeſtly to diſcuſs a ſubject, confeſſedly of the firſt importance to mankind; and to publiſh to the world the reſult of his inquiries thus honeſtly and fairly made, whether that reſult were right or wrong—in *favour* of the prevailing ſyſtem, or *againſt* it.

" In all proſecutions for libel, he ſaid, the charge again the Defendant conſiſted of two component parts—the fact of writing, printing or publiſhing, and the intention with which he writes, prints or publiſhes. The fact was always the object of teſtimony: the intention, too, might ſometimes be the object of teſtimony, and might be collected from circumſtances and facts extrinſic to the work which was the object of proſecution: but it was generally to be collected from the tenor and ſubſtance of the work itſelf. The mere fact of publication was in itſelf no crime: if it were, the Defendant might as well be found guilty of publiſhing a libel of any deſcription which legal ingenuity might ſuggeſt, for having publiſhed *the Bible*, as for having publiſhed *the Age of Reaſon*. But whatever might formerly have been held to be the Law, we owed it to the great

great talents and unwearied exertions of his learned Friend who conducted the preſent proſecution, that it was now happily eſtabliſhed, that, from the mere fact of publication, a Jury was not to convict: they were to look to the intention of the Defendant, whether he were the author or publiſher; and, from their opinion of the moral guilt or innocence of that intention, to convict or to acquit.—In the preſent caſe, he ſaid, the fact of publication was proved; the only object, therefore, for the conſideration of the Jury, was the guilt or innocence of the intention.

"In moſt proſecutions for libel, he ſaid, the language in which the Defendant's intention was charged in the inſtrument of accuſation, was plain and intelligible to common underſtandings, incapable of admitting different meanings, according to the different principles of the perſons who read it. This obſervation, however, was far from being applicable to the preſent caſe, as would be ſeen from an examination of the terms—They were theſe, "Blaſphemouſly, impiouſly, and profanely." He would on no occaſion, he ſaid, chooſe to occupy the time of a Jury by an oſtentatious and uſeleſs diſplay of learning; much leſs would he attempt it on an occaſion ſo ſerious and ſo ſolemn as the preſent: he hoped, therefore, no ſuch intention would be imputed to him, from his endeavouring to fix the exact and original meaning of theſe terms; he felt it neceſſary to the full performance of his duty to his Client. "Blaſphemouſly," he ſaid, "was derived from two Greek words, which ſignify to hurt, to injure or to wound the fame, character, reputation, or good opinion; it therefore meant, "with an intention to hurt," &c. "Profanely," was derived more immediately from a Latin word, which ſignifies "a ſacred place," a place ſet apart for the local worſhip of ſome divinity; a place where the favoured

voured votaries might be received to a more immediate communication with the object of their worſhip; in the language of ancient legends, a "ſane." "Profane," when applied to place, comprehended all that is not thus conſidered as holy ground; when applied to them, it was conſidered as a term of reproach, implying that they were unworthy to approach the ſacred ſpot, unworthy of the communion of the favoured votaries: to do any thing "profanely," therefore, was to do it in a manner, or with an intention, to offend that which is eſteemed holy; or, as all ſubordinate Divinities were now baniſhed from hence, "in a manner, or with an intention, to offend the one Supreme God." "Impiouſly," was derived from the Latin word *pius*, which expreſſed the attachment, affection, reſpect or reverence which is due from a man to ſome other being, to whom he ſtands in the relation of an inferior; as between a ſon and a father, it expreſſed filial affection; as between a man and the Deity; it expreſſed the conſtant and habitual reverence due from the former to the latter:—to do any thing "impiouſly," therefore, was to do it "in a manner, or with an intention, inconſiſtent with that reverence which is due from a man to his Creator." It was plain, therefore, that according to the different ſyſtems of religious opinions which men embrace, they would apply the epithets of blaſphemous, impious and profane, reciprocally to each other, and frequently with equal juſtice. He exemplified this by inſtances from ancient hiſtory: the Perſians, he ſaid, worſhiped the Fire and the Sun, as emblems or repreſentatives of the Divine Being; but they thought it impious to confine the Deity to a local habitation, and therefore they had no temples. Cambyſes, when he invaded Egypt, deſtroyed the temples of the ſacred animals, and reproached the Egyptians as impious, blaſphemous

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and profane, for worſhiping a bull, a cat, or an onion; the Egyptians, on the other hand, reproached him in the ſame terms, for violating the objects of their religious adoration. When Xerxes invaded Greece, purſuing in like manner the ſpirit of his own religion, he deſtroyed the Grecian temples, and reproached the Greeks with impiety, in pretending to confine the Deity to a local habitation; the Greeks, on the contrary, reproached him as impious and profane, for violating their temples. A Chriſtian might call a Turk blaſphemous, impious, and profane, for maintaining the Divine Miſſion of Mahomet: the Turk would ſpeak of the Chriſtian in the ſame terms, for denying that Miſſion, and reviling the Koran. The promoters of the preſent proſecution aſſumed it as a firſt principle not to be diſcuſſed or controvered, that the Bible was written under the immediate authority of the Deity, and that it contained the revelation of his will; they would, therefore, juſtly, according to that aſſumed principle, brand with the epithets of blaſphemous, impious and profane, the man who ſhould deny the Bible to be the Word of God, or ſpeak of it in a diſreſpectful manner. On the other hand, the Author of the work now under proſecution, and others of ſimilar opinions, having formed their ideas of the juſtice, benevolence, and other attributes of God, from a contemplation of his works, aſſumed the right of examining, by the ſtandard of thoſe ideas, any book that was preſented to them as containing the Word of God, and being written under his immediate inſpiration. If, therefore, they thought they found any thing in this book which attributed to the Deity things inconſiſtent with their pre-conceived ideas of his dignity, they would call thoſe blaſphemous, impious, and profane, who offered this book as containing the Word of God. Therefore, ſaid Mr. Kidd, I think

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I have delivered myſelf from the neceſſity of ſhewing that the intention was not blaſphemous, impious, or profane.

" The real queſtion, therefore, was not whether the Jury or his Lordſhip approved the book—not whether they condemned the paſſages ſelected from it, and inſerted in this indictment, or any other part of it— not whether the Jury were of the ſame opinion with the author; but whether at the time when he wrote the book, he felt as he wrote, and expreſſed himſelf as he felt? whether he meant ſeriouſly to examine an important ſubject, and to ſubmit his thoughts on it to the world without a wanton and malevolent intention to do miſchief? If this was his object, and Mr. Kyd ſaid he thought it impoſſible to prove the contrary, he had the reſpectable authority of the Biſhop of Llandaff for ſaying, that the author ought not, and of courſe the publiſher ought not, to be amenable to a human tribunal. He had his authority for ſaying more; he had his authority for ſaying, that it was not for any human tribunal to ſit in judgment on the intention with which a man writes, or publiſhes what he writes, on ſuch ſubjects.

" Mr. Kyd then read a paſſage from Biſhop Watſon's Anſwer to the Age of Reaſon, and another from his Anſwer to the 15th and 16th Chapters of Mr. Gibbon's Roman Hiſtory. He likewiſe read a letter of Dr. Lardner's to the Biſhop of Chicheſter on the ſubject of Woolſton's Diſcourſes on the Miracles of our Saviour, to prove the ſame propoſition; and ſaid he could add many ſimilar authorities, but he thought theſe ſufficient. Mr. Kyd then obſerved, that theſe learned perſons ſpoke in favour of a much greater latitude of liberty in writing on ſubjects of religious controverſy than he thought he had at preſent any occaſion to require; *they* maintained that no human tribunal ought to interpoſe;

terpoſe; that even the *intention* of the writer ought not to be brought under the cognizance of the Civil Magiſtrate: all that *he* had at preſent to contend was, that no malevolent intention could be fairly imputed to the author of the preſent publication. He ſhould argue this, in the firſt place, from the publication itſelf, which, in many parts of it, ſpoke in terms of the moſt reverential awe of the Great Author of the Univerſe—in terms the moſt reſpectful of the character of the Founder of the Chriſtian Religion, and of the moral doctrines which he taught; and he defied the moſt active induſtry of the Counſel for the Proſecution to find a ſingle paſſage in the whole work, inconſiſtent with the moſt chaſte, the moſt correct ſyſtem of morals.

" He then read ſeveral of the leading paſſages of the pamphlet, in confirmation of his aſſertion; and ſaid he would go farther—he would venture to aſſert, that, however erroneous the firſt principles of the author might be, however incorrect his concluſions from thoſe principles, yet, admitting thoſe principles as the foundation of his reaſoning, ſome of the very paſſages ſelected for proſecution afforded the ſtrongeſt proofs of the chaſtity of the author's mind, of the benevolence of his heart, the philanthropy of his diſpoſition, and the correctneſs of his moral ſenſe. The author might be wrong, and he did not feel it incumbent on him to argue that he was right in drawing the concluſions which he did; but his error was involuntary; it was the error of his judgment; it did not proceed from the wickedneſs and corruption of his heart.

" Mr. Kyd then read the ſeveral paſſages which had been read from the Indictment: made ſeveral comments on them, and on the anſwers which ſome of them had received from the Biſhop of Llandaff; and argued, that they were concluſions which a man

fairly and without prejudice diſcuſſing the ſubject, might honeſtly draw from the premiſes. He then contended ſtrenuouſly for an unlimited right of diſcuſſion on all ſubjects, particularly on religious ſubjects: argued the impolicy of reſtraint, as being hurtful to the intereſts of the Chriſtian religion; and referred to the conſequences which followed the conduct of the Council of Nice—appealing to the authority of Dr. Lardner, who attributed to the conduct of that Council the baniſhment of the Chriſtian religion from Aſia, where it was firſt planted, and had flouriſhed for more than three centuries.

" He ſpoke in terms of ſevere reprobation of the proſecution, which compelled him, in the diſcharge of his duty to his Client, to enter into a diſcuſſion which was irkſome to him, and might be productive of dangerous effects on the public mind. As to the Defendant, he contended, *he* ought to be acquitted, whatever might be thought of the author. The pamphlet had been publiſhed and ſold ſo long ago as the year 1794; it had ſunk into oblivion, where it might quietly remained, had it not been for the Anſwer of the Biſhop of Llandaff, which had raiſed it from the grave; that Anſwer being publiſhed in the year 1796, the Defendant had printed the preſent edition from no other motive than to give the Public an opportunity of knowing what it was the Biſhop had thought worthy of an Anſwer."

Mr. ERSKINE made a moſt eloquent reply. He ſaid, he was bound, in reſpect to his learned Friend, as a Member of a moſt honourable profeſſion, to ſuppoſe, that he was placed in a very irkſome ſituation, to be called on for a defence ſo exceedingly difficult to make and ſo extremely delicate to manage, without violating that common de-

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cency that was due to a court of Juſtice. He could not therefore help conſidering him as entitled to a conſiderable degree of indulgence. Mr. Erſkine here adverted to ſeveral of the paſſages ſelected from the Old Teſtament by Mr. Kyd, and explained the reaſon of their introduction into the ſacred writings. The hiſtory of man, he ſaid, was the hiſtory of man's vices and paſſions, which could not be cenſured without adverting to their exiſtence; and many of the inſtances that had been referred to, were recorded as memorable warnings and examples for the inſtruction of mankind. Mr. E. next entered moſt forcibly and deeply into the evidences of Chriſtianity, particularly thoſe that were founded on that ſtupendous ſcheme of prophecy, which formed one of the moſt unanſwerable arguments for the truth of the Chriſtian Religion. "It was not," he ſaid, "the purpoſe of God to deſtroy free agency by overpowering the human mind with the irreſiſtible light, and conviction of revelation, but to leave men to collects its truth, as they were gradually illuſtrated in the accompliſhment of the Divine promiſes of the Goſpel. Bred as he was to the conſideration of evidence, he declared he conſidered the prophecy concerning the deſtruction of the Jewiſh nation, if there was nothing elſe to ſupport Chriſtianity, abſolutely irreſiſtible. The diviſion of the Jews into tribes, to preſerve the genealogy of Chriſt, the diſtinction of the Tribe of Judah, from which he was to come; the loſs of that diſtinction when that end was accompliſhed; the predicted departure of the ſceptre from Iſrael; the deſtruction of the Temple of Jeruſalem, which imperial munificence in vain attempted to rebuild to diſgrace the prophecy; the diſperſion of this nation over the face of the whole earth, the ſpreading of the Goſpel throughout the world; the perſecutions of its true

miniſters, and the foretold ſuperſtitions which for ages had defiled its worſhip—theſe were topics upon which Mr. Erſkine expatiated with great eloquence, and produced a moſt powerful effect on every part of the audience. He concluded, with a vindication of the authors of this proſecution. He ſaid they were men of the higheſt character and greateſt conſideration in the country. Many of them were charged with the offices of religion; others of them were cloathed with the robes of magiſtracy; moſt of them were men of deep learning and thinking; and all of them juſtly entitled to the thanks of the Public for their noble exertions in the cauſe of religion and virtue.

Lord Kenyon then made the following

CHARGE TO THE JURY.

" *Gentlemen of the Jury,*

" Being now in poſſeſſion of all the facts of this caſe, and convinced, in my own mind, what concluſion ought to be drawn from them, I am not ſure, that it is neceſſary to ſay any thing at all to you upon the ſubject. Gentlemen, before you proceed to decide on the merits of this or any other cauſe, it is proper to ſee whether the parties litigating ſtand in a fair light before you. I was extremely hurt when the learned Counſel for the Defendant thought fit to ſtate to you, with very conſiderable emphaſis, and a very determined tone of voice, that this was a ſcandalous proſecution. I cannot help wiſhing that ſentence had not been uttered. Who commenced this proſecution, I certainly know not. But from what fell from the very learned Counſel who has juſt ſat down, I am inclined to ſuppoſe it proceeded from a ſociety of Gentlemen inſtituted for the moſt important of all purpoſes, for preſerving the morals of the people; a ſociety compoſed of Clergymen and Laymen of the moſt reſpectable character in the kingdom, who, feeling how the country is overrun with profligacy and wickedneſs, which boldly raiſe their heads in defiance

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of the law of the land, were determined to ſee whether, in the firſt place, by admonition and advice, they could not ſtop the torrent of vice and immorality; and ſecondly, if that ſhould fail, to try what could be done by puniſhment. If people, with the very beſt intentions, carry on proſecutions that are oppreſſive, the end may not always perhaps ſanctify the means. But the manner in which this proſecution has been conducted, is certainly not oppreſſive; for inſtead of proceeding in the more expenſive mode, the Proſecutors went before a Grand Jury of the Country: and it was neceſſary to obtain the opinion of that Grand Jury before the party could be put in proceſs.

"Gentlemen, we ſit here in a Chriſtian Aſſembly to adminiſter the laws of the land, and I am to take my knowledge of what the law is from that which has been ſanctioned by a great variety of legal deciſions. I am bound to ſtate to you what my predeceſſors in Mr. Woolſton's caſe (2 Strange, 834) ſtated half a century ago in this Court, of which I am an humble Member, namely, that the Chriſtian Religion is part of the law of the land. Chriſtianity from its earlieſt inſtitution met with its oppoſers. Its profeſſors were very ſoon called upon to publiſh their apologies for the doctrines they had embraced. In what manner they did that, and whether they had the advantage of their adverſaries, or ſunk under the ſuperiority of their arguments, mankind for near two thouſand years have had an opportunity of judging. They have ſeen what Julian, Juſtin Martyr, and other Apologiſts have written, and have been of opinion the argument was in favour of thoſe very publications. The world has been lately favoured with another apology from a most learned and reſpectable prelate, who calls his work *An Apology for th. Chriſtian Religion*. I ſhall not decide between the merits of the one and the other. The publications themſelves are in the hands of the world; and I ſincerely wiſh in the concluding language of the work to which I have just referred (I do not affect to uſe the very words) I ſincerely wiſh that the author of the work in queſtion may become a partaker of that faith in revealed religion, which he has ſo groſly defamed, and may be enabled to make his peace with God

for

ſor that diſorder which he has endeavoured to the utmoſt of his power to introduce into ſociety. We have heard to-day, that the light of Nature, and the contemplation of the works of creation are ſufficient, without any other revelation of the Divine Will. Socrates, Plato, Xenophon, Tully---each of them in their turns profeſſed they wanted other lights; and knowing and confeſſing that God was good, they took it for granted the time would come when he would impart a farther Revelation of his Will to mankind. Though they walked as it were through a cloud, darkly, they hoped their poſterity would almoſt ſee God face to face. This condition of mankind has met with reprehenſion to-day. But I ſhall not purſue this argument. Fully impreſſed with the great truths of religion, which, thank God, I was taught in my early years to believe, and of which the hour of reflection and inquiry, inſtead of producing any doubt, has fully confirmed me in.

" I expected the learned Counſel for the Defendant would have differed the caſe of the Publiſher from that of the Author of this work; that he would have endeavoured to convince you that whatever guilt might belong to the Author, nothing was imputable to the Publiſher. He has, however, to my utter ſurpriſe, exactly reverſed the caſe. He tells you, it was originally publiſhed at Paris in 1794; that the feelings of the Author's friends were wounded by this work, which I call a nefarious publication, and that it was in a great meaſure forgotten; and you are now called upon to judge of the merits or demerits of the publiſher, who has brought forth a ſtill-born work, forgotten by every body, till he ventured in defiance of the verdicts of mankind on the Author's political works, to ſend it forth among the inhabitants of this country. Unleſs it was for the moſt malignant purpoſes, I cannot conceive how it was publiſhed. It is however for you to judge of it, and to do juſtice between the Public and the Defendant."

The Jury inſtantly found the Defendant—GUILTY.

FINIS.

MVSEVM BRITAN-NICVM

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